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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/684,432

10/15/2003

Yoshiyuki Sasaki

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EXAMINER

GOMA, TAWFIK A

ART UNIT

PAPER NUMBER

2627

NOTIFICATION DATE

DELIVERY MODE

07/09/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/684,432 | <b>Applicant(s)</b><br>SASAKI, YOSHIYUKI |  |
|                              | <b>Examiner</b><br>TAWFIK GOMA       | <b>Art Unit</b><br>2627                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is in response to the amendments filed on 4/02/2008.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mine (US 6243338).

Regarding claim 1, Mine discloses a data recording device, comprising: a recording unit that records data on a recording medium (fig. 1), said recording medium including a plurality of recorded regions each having data recorded by the recording unit and a plurality of unrecorded regions without any data recorded (col. 8 lines 47-58); and a recording state determination unit that stores recording state data for distinguishing the recorded regions from the unrecorded regions (col. 8 lines 59-63); wherein the recording unit includes ; a determination unit that determines whether a first region immediately prior to a second region is unrecorded by the recording state determination unit (col. 8 lines 47-58 and col. 9 lines 1-4), the data to be recorded in the recording medium being recorded in said second region (user data, fig. 9 and col. 8 lines 47-58); a dummy data recording unit that records dummy data in the first region when the determination unit determines that the first region is unrecorded, said dummy data enabling reading data in the second region (col. 8 lines 29-37); and a controller that identifies and manages the first region recorded with the dummy data as one of the unrecorded regions (col. 10 lines 55-67 through col. 11 lines 1-12, user WBBM, fig. 14a).

Regarding claim 2, Mine further discloses wherein the mark includes predetermined data used for generating a synchronization signal when reading data on the recording medium (col. 8 lines 34-36).

Regarding claim 3, Mine discloses wherein the mark includes one ECC block of predetermined data (fig. 11) when the recording medium is in compliance with a DVD+RW disk standard (col. 4 lines 48-50).

Regarding claim 4, Mine further discloses wherein the recording state determination unit stores the recording state data for each minimum recording region of the recording medium to determine a recording state of each of the minimum recording regions (col. 9 lines 63-67 through col. 10 lines 1-2).

Regarding claim 5, Mine further discloses wherein the recording state determination unit distinguishes the recorded region from the unrecorded region based on a bitmap including a plurality of one-bit recording state flags (fig. 11).

Regarding claim 6, Mine further discloses a recording-state flag storing unit configured to store the recording state flags (23, fig. 1, and col. 8 lines 64-66).

Regarding claim 7, Mine further discloses a recording state flag recording unit configured to record the recording state flags to a recording state flag recording region in the recording medium (WBBM, col. 8 lines 64-66).

Regarding claim 8, Mine further discloses wherein the recording state flag recording region is allocated in a Formatting Disk Control Block (FDCB) in a lead-in area of the recording medium (col. 8 lines 64-66), when the recording medium is in compliance with a DVD+RW disk standard (col. 4 lines 48-50).

Method claim 9 is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claim 9, correspond to apparatus claim 1 and is rejected for the same reasons of anticipation as used above.

Furthermore, claims 10-12 are disclosed by Mine, which discloses a program (col. 5 lines 33-36), a storage medium for storing the program (col. 5 lines 33-36) and a recording system (fig. 1) for using the corresponding apparatus claimed in claim 1. Therefore claims 10-12, correspond to apparatus claim 1 and are rejected for the same reasons of anticipation as used above.

Claim 12 is drawn to the system corresponding to the apparatus of the same as claimed in claim 1. Claim 12, however recites the following additional limitations. Mine discloses a data recording system (fig. 1) comprising: a host computer (10, 21, fig. 1); and a data recording device (8, fig. 1).

### ***Response to Arguments***

Applicant's arguments filed 4/02/2008 have been fully considered but they are not persuasive. Regarding applicant's arguments that Mine fails to disclose wherein the unrecorded portions containing the dummy data are managed as "unrecorded" in the bitmap, this argument is not persuasive because Mine clearly discloses that the user bitmap is used to show that the regions with dummy data are labeled as unrecorded.

Regarding applicant's arguments that Mine fails to disclose recording the dummy data before finalization, this argument is not persuasive for at least the reason that the limitation regarding recording dummy data prior to the finalization is not claimed.

Finally, regarding applicant's arguments that Mine does not disclose recording dummy data, but only discloses finalization data, this argument is not persuasive because Mine clearly discloses that the finalization data is a term used to refer to dummy data (see col. 8 lines 29-31).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAWFIK GOMA whose telephone number is (571)272-4206. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph H. Feild/  
Supervisory Patent Examiner, Art Unit  
2627

/Tawfik Goma/  
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